

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON FISHERIES**

February 2, 2016  
10:01 a.m.

**MEMBERS PRESENT**

Representative Louise Stutes, Chair  
Representative Neal Foster  
Representative Charisse Millett  
Representative Jonathan Kreiss-Tomkins  
Representative Dan Ortiz

**MEMBERS ABSENT**

Representative Bob Herron  
Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 251

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 251

SHORT TITLE: ELECTRONIC TAX RETURNS & FISHERIES TAXES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	FSH, FIN
02/02/16	(H)	FSH AT 10:00 AM CAPITOL 120

**WITNESS REGISTER**

KEVIN BROOKS, Deputy Commissioner  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 251 on behalf of the governor.

TOM SUTTON, Fish Group Manager

Tax Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on HB 251.

KEN ALPER, Director  
Tax Division  
Department of Revenue (DOR)

**POSITION STATEMENT:** Responded to questions during the hearing on HB 251.

WES HUMBYRD  
Homer, Alaska

**POSITION STATEMENT:** Testified with concern for HB 251, and suggested alternatives.

RHONDA HUBBARD  
Seward, Alaska

**POSITION STATEMENT:** Testified with concern for HB 251 and suggested alternatives.

#### **ACTION NARRATIVE**

[10:01:41 AM](#)

**CHAIR LOUISE STUTES** called the House Special Committee on Fisheries meeting to order at 10:01 a.m. Representatives Stutes, Millett, Ortiz, and Kreiss-Tomkins were present at the call to order. Representative Foster arrived as the meeting was in progress.

#### **HB 251-ELECTRONIC TAX RETURNS & FISHERIES TAXES**

CHAIR STUTES announced that the only order of business would be HOUSE BILL NO. 251, "An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date."

[10:02:54 AM](#)

KEVIN BROOKS, Deputy Commissioner, Alaska Department of Fish & Game (ADF&G), Juneau, Alaska, introduced HB 251 and explained

that it increases fish tax revenues and also requires returns to be submitted electronically. Two taxes have historically been imposed on the fishing industry, he pointed out, a fish business tax and a landing tax. The business tax is paid by entities processing fish in, or exporting fish from, Alaska. The basis for the tax is the raw resource or the fair market value. Development of the tax began in 1913, with the territorial salmon pack tax, and was expanded over the years to include other species. The first fish business license was required in 1951, and in 1962 revenue distribution practices saw the inception of municipal sharing, which has increased over the years from the original 10 percent to today's 50 percent.

[10:05:25 AM](#)

REPRESENTATIVE ORTIZ asked for a definition of fish processor, and the scope of the term, noting that many levels of processing exist.

MR. BROOKS offered to provide further information.

[10:06:14 AM](#)

MR. BROOKS continued to explain the current tax structure, adopted and in place since 2004. Provisions include: shore-based facilities pay 1 percent for developing fisheries and 3 percent for established species; floating facilities pay 3 percent for developing species and 5 percent for established species; and salmon canneries pay 4.5 percent. The department utilizes specific criteria to designate a fishery as developing or established, and shares pertinent information with the Department of Revenue (DOR) for taxation purposes.

REPRESENTATIVE KREISS-TOMKINS asked for the origin of the differential rate levied on canned versus other salmon processing, and whether taxes are exclusive to floating facilities operating in state waters, or also include processors located in federal waters.

MR. BROOKS deferred.

[10:08:05 AM](#)

TOM SUTTON, Fish Group Manager, Tax Division, Department of Revenue (DOR), offered to provide further information on the origin of the cannery tax rate. Regarding the floating facilities, the bill relates to operations within the three mile

limit; Alaskan waters. He acknowledged that other floating facilities exist, and said any products brought to shore would have a landing tax imposed.

[10:10:11 AM](#)

REPRESENTATIVE KREISS-TOMKINS queried whether processors in federal waters tend to bring their products to Alaskan shores, or by-pass the state entirely. Also, he asked, how many floating facilities exist and the amount of tax revenue they generate.

MR. SUTTON estimated 30-40 facilities exist in Alaskan waters, and the tax is imposed based on the species landed. He pointed out that pollock processors are an exception. Pollock are pursued in U.S. waters [Exclusive Economic Zone (EEZ)], which extend to 200 miles off-shore. A tax is imposed on pollock regardless of where the landing occurs. To a follow-up question, he said the tax received on the fishery resource landing receipts totaled \$12.5, in 2014. Approximately \$5.4 million of that was distributed to municipalities, leaving about \$7 million in Alaska's general fund.

REPRESENTATIVE KREISS-TOMKINS focused on the pollock return, and noted that it represents a one to two billion dollar industry. The value of the pollock fishery to Alaska, he estimated, is about \$30-50 million per year.

MR. SUTTON said pollock represents one of the largest resources in the state, is currently returning about \$.15 per pound, and he offered to provide further information.

MR. BROOKS added that floating processors pay a slightly higher tax rate as an enticement to use shore based facilities, which boosts local employment. The direct marketing license holders pay shore-based tax rates.

[10:14:07 AM](#)

MR. BROOKS turned to the fish landing tax, and said it's levied on the unprocessed value of a fishery resource first landed in Alaska, but processed outside of state waters. The value is calculated by using the statewide average price (SWAP), as compiled by ADF&G. The tax applies primarily to factory trawlers and floating processors and 50 percent of the revenue is shared with municipalities. He provided a brief history of the fish landing tax, stating that it was first applied in 1994,

with an initial assessment of 3.3 percent of the unprocessed value of the catch. Today it's set at 1 percent for developing species and 3 percent for established species. Federal statute provides an exception for pollock, which is subject to the landing tax even if not landed in Alaska, as per the 1999 American Fisheries Act (AFA).

MR. BROOKS pointed out that, although it is considered a 50/50 share with communities, any tax credits are extracted from the 50 percent that the state receives, reducing the general fund contribution.

[10:16:44 AM](#)

REPRESENTATIVE ORTIZ asked if the community shares are handled through the revenue sharing fund structure, or via a different distribution process.

MR. BROOKS responded that a similar but different process is used, not the traditional revenue sharing program, and requires a separate calculation. Share breakouts are also made at the city/organized borough level, by the Department of Commerce, Community & Economic Development (DCCED), depending on where the processing or landing takes place.

MR. BROOKS directed attention to the department's 22 page, committee handout, titled "New Sustainable Alaska Plan," pages 9-10, to review the three year history of the fish business and fish landing tax revenues, respectively. He pointed out that the state's share of the business tax revenue is normally smaller than the municipal share due to the previously mentioned tax credit reductions. Turning to pages 11-12 of the handout, he described the proposed 1 percent increase versus current tax rates, using a side-by-side illustration for the established and developing floating, cannery, and shore-based operations, which will be further reviewed in the sectional analysis.

[10:20:19 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked how ADF&G/DOR determine whether a fishery is established or developing.

MR. BROOKS answered that specific criteria is used to make the determination. In January, ADF&G provides DOR with a letter identifying those fisheries that are developing. Considerations include: established markets, size of the fishery, and the

number of years a fishery has been harvested. He offered to provide further information.

[10:21:28 AM](#)

CHAIR STUTES asked why the charter boat industry is not included in the proposal, considering that many utilize shore-based processors in order to prepare their catch for home delivery outside of Alaska.

MR. BROOKS opined that charter boats are considered to be carrying recreational anglers, and he offered to provide further information.

MR. BROOKS pointed out that the proposed 1 percent increase provides state revenue only and will not be shared with municipalities. The municipal sharing would continue for the remaining revenue. Also, the tax would be handled via an electronic filing method.

[10:23:19 AM](#)

REPRESENTATIVE FOSTER questioned the requirement to use electronic filing, given the technical challenges it could represent to rural Alaskans.

MR. BROOKS deferred.

MR. SUTTON said DOR expects to provide waivers on request, and will accept handwritten returns.

[10:24:45 AM](#)

MR. BROOKS restated the distribution of the proposed tax, and added that Washington is the only other state with a tax specific to fish. The Department of Revenue estimates an additional \$18 million per year will be generated for the general fund, as a result of adopting the tax.

[10:26:04 AM](#)

REPRESENTATIVE KREISS-TOMKINS questioned the equitability of raising \$18 million and asked for a breakdown of who will carry the burden.

MR. BROOKS responded that the fisheries business tax carries the highest amount, at 3 percent, and a comprehensive revenue share list is available for review from DOR.

10:27:00 AM

MR. BROOKS reviewed the implementation costs, which include updates to the tax revenue management system (TRMS) and the revenue online (ROL) program. An estimated one time cost of \$100,000 will be needed to develop new tax forms, complete the reprogramming, and test the new system. After the initial investment, further administrative costs are not anticipated. He highlighted the role the proposed tax plays in closing the \$5.2 billion budget gap. Actions also include a \$140 million spending reduction within ADF&G.

10:28:52 AM

REPRESENTATIVE MILLETT asked for specifics regarding the programs and activities ADF&G plans to cut, in FY 17, to meet the \$140 million reduction requirement.

MR. BROOKS offered to provide detailed information.

10:30:04 AM

MR. BROOKS continued to review the budget scenario and pointed out how the increased \$18 million, in revenue from ADF&G, ranks with taxes proposed in other state departments.

REPRESENTATIVE MILLETT maintained her interest in understanding the specific cuts being made to ADF&G programs.

CHAIR STUTES asked for the complete departmental list that will be presented to the finance subcommittee.

MR. BROOKS said it includes weirs, counting tours, and a number of projects throughout every region and he agreed to provide a list to the committee.

10:35:53 AM

REPRESENTATIVE MILLETT inquired about personnel cuts, particularly with regard to the offices of the commissioner and administration.

MR. BROOKS said the legislative liaison position has already been cut, as has the public relations officer. Other administrative cuts are being considered, and consolidation is being underway.

[10:38:11 AM](#)

REPRESENTATIVE ORTIZ noted that the department has been subjected to reductions in previous fiscal years. He said, given the projection for this year, are the goals of the department's mission statement still viable and able to be met; noting that legislative mandates exist.

MR. BROOKS explained how the budget has been reduced over the course of two budget cycles, from \$80 million down to \$57 million.

REPRESENTATIVE ORTIZ asked whether the reductions impact the ability of the department to fulfill its mission statement.

MR. BROOKS responded: "Quite possibly." He said attempts are being taken to first do no harm; however, without appropriate data collection the precision for in-season management will be compromised. Additionally, all field projects are under scrutiny. Finished the overview, he stated that the buyer will not be effected by the tax proposal.

[10:42:58 AM](#)

MR. BROOKS provided a sectional analysis of HB 251, paraphrasing from a prepared statement, which read [original punctuation provided]:

Sec. 1. Adds a \$25 or 1% tax penalty for failure to file electronically unless an exemption is received by the taxpayer

Sec. 2. Requires electronic submission of tax returns, license applications, and other documents submitted to the Department of Revenue. This changes the general tax statutes, AS 43.05, and will apply to all tax types administered by the department. Provides a process to request an exemption if a taxpayer does not have the technological capability to do so.

Sec. 3. Increases three different tax rates within the Fisheries Business Tax by one percent. The current rates range from three to five percent.

Sec. 4. Increases tax rate within the Fisheries Business Tax for developing fish species processed by a floating processor from 3 to 4 percent. Rate remains at 1 percent for developing fish species processed by a shore-based business.

[10:44:57 AM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Sec. 4, noting the proposal for imposing a flat rate tax on shore-based processors while increasing the rate by one percent for floating processors, and asked how that policy was decided.

MR. BROOKS stated that he did not participate in the meetings to set the taxes, and conjectured that social impacts for employment may come into play as shore-based businesses effect the local economies.

REPRESENTATIVE KREISS-TOMKINS maintained his question for why the decision was made to shift the tax burden to floating processors.

MR. BROOKS deferred.

MR. SUTTON deferred.

[10:47:51 AM](#)

KEN ALPER, Director, Tax Division, said a number of variables were considered in the process, but the final decision was a judgement call.

[10:49:58 AM](#)

MR. BROOKS continued with the analysis:

Sec. 5. Increases tax rate within the Fisheries Business Tax for direct marketers from 3 to 4 percent. Rate remains at 1 percent for developing fish species sold by direct marketers.

Sec. 6. Conforming language related to the requirement to submit returns or reports electronically. This section deletes the requirement for taxpayers to submit their returns to the department in Juneau.

Sec. 7. Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.

Sec. 8. Increases tax rate within the Fisheries Landing Tax for fish species other than developing fish species from 3 to 4 percent. Rate remains at 1 percent for developing fish species.

Sec. 9. Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.

[10:51:27 AM](#)

CHAIR STUTES confirmed that usage of the term "developing fish species" will be specifically defined under Sec. 8.

[10:51:47 AM](#)

MR. BROOKS continued with the analysis:

Sec.10. Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with boroughs per the currently existing formula.

Sec. 11. Transitional language allowing for regulations

Sec. 12. Section 11 above takes effect immediately.

Sec. 13. Effective date of 7/1/16 for the rest of the bill including the tax rate change.

CHAIR STUTES opened public testimony.

[10:52:58 AM](#)

REPRESENTATIVE KREISS-TOMKINS requested information regarding the specific companies that pay the landing tax, as well as the economic character and foot print that each company holds.

[10:53:58 AM](#)

REPRESENTATIVE FOSTER requested a streamlined, one page summary, or pie chart illustration, differentiating the companies which are and aren't, being taxed.

[10:54:17 AM](#)

REPRESENTATIVE ORTIZ voiced interest in having a definition of certain entities: taxed processor, untaxed processor, and other processors.

[10:55:07 AM](#)

WES HUMBYRD, expressed concern for the proposed 1 percent tax. The rate actually becomes a 3 percent tax, given the other areas also being proposed for increases, such as fuel. A solution to the issue might be to incorporate a business model for the stakeholders, he suggested, and paraphrased from a prepared statement, which read: [original punctuation provided]:

The greatest value to the State from its' fishery resources will not be realized until the Alaska Department of Fish & Game (ADF&G) and the Board of Fisheries (BOF) incorporate a business model approach to every management policy and plan. Fisheries management needs to be focused on fully utilizing these renewable resources with the understanding that allocation and daily management decisions have direct economic consequences to the welfare of the State. Taxes, licenses and permit fees should be adjusted so that all resource users share in the necessary cost of management.

To illustrate these concepts, this analysis examines the results of changing taxation revenue, license fees and monetizing unharvested surplus salmon. A retrospective analysis based on the fully documented 2014 UCI [Upper Cook Inlet] salmon fishery was chosen over projecting into an uncertain future. The 2014 UCI salmon fishery is the latest year for which harvest data is complete. This retrospective analysis will provide the reader an estimate of State revenues

resulting from applying a series of revenue options to the 2014 UCI salmon fisheries. There are several options for additional revenue under consideration. First, a review of unharvested salmon stocks, monetizing the economic value they represent and increasing the commercial fishery business tax to 4%; second, increasing the sport fishing license by \$5 for resident and \$10 for non-resident anglers; third, implementing a new \$30 fee for each original dipnet permit.

In this analysis, the effects on direct State tax and license revenue from UCI salmon fisheries would be:

Harvesting surplus salmon for an additional \$1,505,000 at the current tax rate;

Applying a 1% increase to the Commercial Fishery Business Tax Rate for an additional \$350,000 in commercial revenue and \$1,715,000 in revenue from the unharvested salmon, totaling \$2,065,000 in new revenues;

Applying a \$5 resident and a \$10 non-resident sport fishing license fee increase for \$900,000 in new revenue;

Applying a \$30.00 fee to the original personal use permit for \$900,000 in new revenue.

Total of potential new tax and license revenue is \$3,865,000 from UCI salmon alone.

MR. HUMBYRD opined that ADF&G allows resource waste, and estimated that 80 percent of the 2014, UCI fish runs were unharvested.

[10:58:15 AM](#)

REPRESENTATIVE ORTIZ questioned the ability to tax unharvested salmon.

MR. HUMBYRD said an analysis has been made of the up-river waste; salmon that are not captured on the open fishing grounds. An estimated \$60 million was lost in 2014 due to unrealized harvest, he maintained, and mentioned the availability of a comprehensive analysis ["Analysis of State Revenue from

Fisheries, Upper Cook Inlet, 2014," United Cook Inlet Drift Association (UCIDA), 2015, 14 pages].

[10:59:48 AM](#)

RHONDA HUBBARD stated concern for HB 251, and said the small business she owns and operates focusses on processing bottom fish and direct marketing of the products. The catcher/processors, outside of three miles, are being charged a 3 percent tax, and fishermen in Alaskan waters pay 5 percent. She suggested that a 4 percent, across the board tax be imposed. Also, introduction of a bill to tax sport caught fish would be a reasonable action, she opined. The electronic filing requirement could be combined with the e-landing report already in use, she suggested. Finishing, she directed attention to the committee packet and her three-page memorandum, with attachments, addressed to the committee chair, further detailing these comments [undated, unnumbered pages]. She finished, stating that reforming the tax is appropriate and necessary.

[11:04:32 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked for elaboration on Ms. Hubbard's recommendation to eliminate the distinction between developing and mature fisheries.

MS. HUBBARD answered that the developing fisheries tax represents an insignificant amount and is strategically unnecessary. In response to a request from Representative Millett, she advised that further information could be found in the aforementioned memorandum. She further encouraged the committee to consider that if there is going to be an increase in taxes, then there needs to be a dedicated portion for stock assessment needs.

CHAIR STUTES, after ascertaining no one further wished to testify, closed public testimony on HB 251.

[HB 251 was held over.]

[11:08:06 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:08 a.m.